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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/566,300

01/25/2006

Ryo Suzuki

OGOSH42USA

2014

270 7590 10/02/2008

HOWSON AND HOWSON
SUITE 210
501 OFFICE CENTER DRIVE
FT WASHINGTON, PA 19034

EXAMINER

LI, JUN

ART UNIT

PAPER NUMBER

4181

MAIL DATE

DELIVERY MODE

10/02/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/566,300	Applicant(s) SUZUKI, RYO	
	Examiner JUN LI	Art Unit 4181	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 is/are pending in the application.
4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>02/16/2007</u> . | 6) <input type="checkbox"/> Other: ____. |

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DETAILED ACTION

Claim Objections

1. Claim1 is objected to because of the following informalities: line 3 recites "SC" and which appears to be element "Sc". Appropriate correction is required.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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2. Claim 1 is rejected under 35 U.S.C. 103(a) as being unpatentable over Bates *et al.* (1992, Solid State Ionics, 52:235-242) in view of Watanabe *et al.* (JP 09-316630).

Bates *et al.* teach a composition $\text{La}_{1-x}\text{Sr}_x\text{CrO}_3$, $\text{Y}_{1-x}\text{Sr}_x\text{CrO}_3$ (where $x=0$) (abstract, line 7 and Fig 2, page 237), $\text{La}_{1-x}\text{Sr}_x\text{MnO}_3$ (page 236 last paragraph line 7) with a particle size 1-100nm (abstract, line 3), a density greater than 95% and 98% (page 237, under section 3 Air-sintering of chromites, first paragraph, line 8-9; first paragraph under section 3.2 and Fig 2; First line, page 239); a resistivity much less than $10 \Omega\text{m}$ (converted from electrical conductivity of Fig 6).

Bates *et al.* do not teach: 1) a sputtering target comprised of the claimed composition; and 2) purity of 3N or more.

With respect to feature 1), the claimed sputtering target is an intended use of the composition of Bates *et al.*. It is well known in the art as evidenced by Watanabe *et al.* (Jp 09-316630, Abstract) that a sputtering target can be made from sintered compacted powders with a perovskite like composition. Therefore, it would have been obvious to one skilled in the art to have made a sputtering target from Bates *et al.*'s composition by Watanabe *et al.*'s method with expected success.

With respect to feature 2), It is known that that purer forms of known products may be patentable, but the mere purity of a product, by itself, does not render the product unobvious. *Ex parte Gray*, 10 USPQ2d 1922 (Bd. Pat. App. & Inter. 1989). MPEP § 2144.04 [R-6] VII. Furthermore, Watanabe *et al.* (JP 09-316630) also teach a perovskite oxide with a purity as high as 4N (abstract line 7-8, line 5 and line 10 in

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paragraph Embodiment of the Invention, detailed description), which is higher than the claimed 3N purity in the instant claim 1.

Watanabe *et al.* (JP 09-316630) further teach if the purity is less than 4N, there will be associated particle growth during the sputtering process (paragraph [0011](d)).

Therefore, in order to minimize the associated particle growth during the sputtering process, it would have been obvious to an ordinary person skilled in the art to apply Watanabe *et al's teaching* (JP 09-316630) to make the perovskite like composition of Bates et al (1992, Solid State Ionics, 52:235-242) of $Ra_{1-x}A_xBO_{3-\alpha}$ with a high purity as claimed.

Conclusion

1. No claim is allowed.
2. All pending claims are subject to rejections.
3. Mohamed (Principle and application of time domain electrometry in Geoenvironmental Engineering, page 441, 14.2 electrical conductivity section 2006) disclosed the reciprocal value of the electrical resistivity from the electrical conductivity. Takeda et al. (JP 9-260139), OKada et al. (JP 9-74015), Tomai et al. (JP 09-209134) are all in pertinent art but not cited for rejections in this office action.

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4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Examiner Jun Li whose telephone number is 571-270-5858. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vickie Kim can be reached on 571-272-0579. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Jun Li

September 17, 2008

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/Roy King/
Supervisory Patent Examiner, Art
Unit 1793